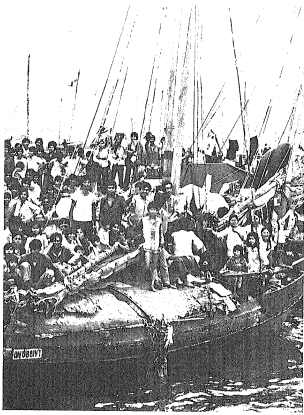


INS Reporter

Immigration and Naturalization Service U.S. Department of Justice

Spring 1980



The Indochinese Refugee Program in Southeast Asia
Settlement Patterns of Indochinese Refugees
The "Refugee Act of 1980"

INS Reporter

Spring 1980

The United States Department of Justice
Benjamin R. Civiletti, *Attorney General*

Immigration and Naturalization Service
David Crosland, *Acting Commissioner*

Contents

Volume 28, No. 3

The Indochinese Refugee Program in Southeast Asia	1
Settlement Patterns of Indochinese Refugees in the United States	6
The "Refugee Act of 1980"	10
Changes in the Regulations	12
Administrative Decisions	13

Immigration and Naturalization Service

Martin B. Danziger

Deputy Commissioner

Cornelius J. Leary
*Executive Assistant to the
Commissioner*

James A. Kennedy
*Associate Commissioner
Management*

Charles C. Sava
*Associate Commissioner
Enforcement*

Carl J. Wack, Jr.
*Associate Commissioner
Examinations*

Robert A. Kane
*Associate Commissioner
Operations Support*

Paul Saenz
*Associate Deputy Commissioner
Planning, Evaluation & Budgeting*

David Crosland
General Counsel

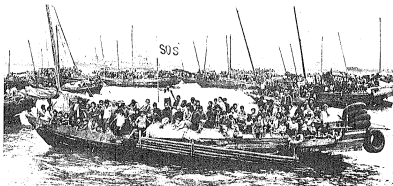
Cover: Refugees arriving in Hong Kong aboard vessels which were overflowing beyond capacity and many of which were unseaworthy. Those who made it, had faced many adverse conditions on their journey including unpredictable weather, insufficient food and water, and even piracy. The mid-1979 exodus found many refugee-filled boats lined up in the Hong Kong harbor.

The opinions expressed are those of the authors and do not necessarily reflect the views or policies of the Immigration and Naturalization Service.

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of this Agency. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through June 30, 1981.

Verne Jarvis
Public Information Officer

Janet R. Graham
Editor



The Indochinese Refugee Program in Southeast Asia

By Joseph Sureck
District Director
Hong Kong

While the world debates and agonizes about its responsibilities toward Indochinese refugees, a team of dedicated workers, inspired by a humanitarian undertaking, work together to feed, house, clothe, and ultimately to process the refugees who have crossed hundreds of miles of sea, or trekked through jungles and mine fields to countries of first asylum, seeking resettlement in a free society.

Those who came by boat may have paid hundreds of dollars each to an arranger, always uncertain whether they would successfully achieve the rendezvous with the escape boat; many of questionable

seaworthiness. The boats, once at sea, oftentimes floundered because of mechanical problems or went astray due to navigational errors. Countless dozens of boats sank with loss of hundreds of lives.

Many boat refugees who reached a country of first asylum reported being intercepted by pirates who robbed them of their possessions and even raped their women. Some boats, after weeks at sea, were not permitted to land, were towed out to sea, again to face the uncertainties of the seaworthiness of their vessel, the elements, food and water, and whether upon reaching another country, attempts to land would be thwarted.

Those refugees who crossed into Thailand by land from Laos and Cambodia were the fortunate ones who had not been overcome by starvation or sickness; also avoiding the mortar shells and bullets. This writer, at the refugee camp in Nongkhai, Thailand, observed a woman being treated by paramedics. While floating across the Mekong River from Laos, hanging to a log, holding her baby, and assisting her other children, she was fired upon by militiamen in Laos, a bullet crassing her skull. She survived but she lost all her children.

Persons processing refugees at Thai camps along the border from time to time were within earshot of

A familiar scene is that of boats, many of them unseaworthy, and overflowing with refugees, arriving in Hong Kong.

the exchange of mortar fire across the border.

Mid-1979 Exodus from Vietnam

Except for the exodus of refugees from Vietnam in 1975, following the conclusion of military activities there, resulting in upwards of 150,000 persons escaping Vietnam by air or sea, the flow of refugees had been manageable. However, it reached a crescendo in the middle of 1979 when the refugee camps in Malaysia, Thailand, Indonesia and Hong Kong overflowed with approximately a half million people. Most of the persons leaving Vietnam in 1978-79 were of Chinese ethnic origin.

These persons reported generally that they were informed by Government officials that they had an election; namely, to leave Vietnam or be moved to a New Economic Zone to develop new land at considerable hardship and privation. Most chose to leave, for which a price as high as \$3,000 each had to be paid. According to the Sino-Vietnamese refugees, such movements had the imprimatur and even direct assistance of the Vietnamese Government.



Typical of the overcrowded conditions on many of the boats arriving in Hong Kong carrying refugees.

Internationalization

The United States, in pursuance of its traditional role of providing a sanctuary for refugees escaping persecution by reason of race, religion, or political opinion, has accepted Indochinese refugees for resettlement since 1975. Its intake was increased in 1979 to 14,000 a month to await action by Congress on a new refugee bill (finally passed March 17, 1980, as the Refugee Act of 1980, P.L. 96-212).

At the same time, the United States Government, by direct appeal of the President and through the Office of the United States Coordinator for Refugee Affairs, was urging other Governments to accept more refugees. This internationalization effort has been successful with Canada, Australia, France, and other members of the world community in resettling thousands of the refugees.

Refugee Processing Centers

In 1979, with the refugee camps in Malaysia, Indonesia, Thailand, and

Hong Kong overflowing, creating housing, medical, sanitation hazards — as well as serious adverse local domestic and political reaction — the United States proposed that refugees

who may have to wait an inordinate period of time for a resettlement opportunity, be moved to Refugee Processing Centers (RPC). This would relieve the pressures upon countries of first asylum, and also provide improved housing, health and sanitation facilities. Educational programs are also being planned to provide orientation and language training to facilitate easier absorption of the refugee into the American way of life upon arrival in the United States.

The Government of the Philippines volunteered a site on Bataan and the first phase of the RPC has been completed accommodating a population of 10,000 refugees, all accepted for resettlement in the United States. It is anticipated that the RPC will be enlarged to accept at least another 10,000 refugees.

Processing by JVAR

After arrival in a country of first asylum, the refugees will be interviewed and registered by the UNHCR



The refugees are temporarily housed in these facilities until removed to refugee camps elsewhere.

The Refugee Processing Center at Bataan, Philippines, houses some 10,000 refugees destined to resettle in the U.S.



(United Nations High Commissioner for Refugees). If initially determined to meet the definition of refugee, the UNHCR will endeavor to refer the refugee to resettlement countries where the refugee has relatives or whose background fits the resettlement criteria of a particular country.

The responsibility of the various agencies directly associated with the United States program for processing, accepting and transporting refugees, is coordinated by a Department of State Refugee Officer. The interview of refugees for the United States program is conducted initially by the office of JVAR (Joint Voluntary Agency Representative) under contract with the United States Government. A JVAR worker completes family and personal history forms on each family. The JVAR worker also

completes a biodata (biographical sheet) form and will submit a file of the refugee to the United States Immigration Service with a suggested category assignment.

In order to determine priority of movement of a refugee within the monthly limitation of 14,000 (until a new allocation under the Refugee Act

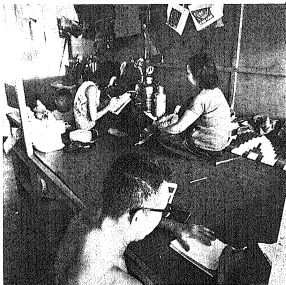
of 1980 is announced) the refugees accepted by the United States are moved to this country in accordance with the following category (priority) formula:

- Close relationships, as defined, with a relative in the United States;
- Unaccompanied minors, 17 years of age or under;
- Former United States Government employees for one year after January 1, 1962;
- Other persons closely associated with the United States, as defined;
- Various sub-categories not qualified as categories I, II, III

Included in the processing by JVAR is the taking of photographs and fingerprints of refugees 14 years of age and older, initiating requests for verification of family relationship, security checks, etcetera. This organization sends the biodata sheet to ACVA (American Council of Voluntary Agencies), which refers the sheet to a member voluntary resettlement agency to locate a sponsor. This sponsor, when located, agrees after arrival of the refugee in the United States to provide housing, sustenance, and assistance during the period of adjustment.

Motivation for Leaving Vietnam

With the end of hostilities in South Vietnam, free enterprise was abol-



A refugee family relaxes in one of the barracks at the Bataan Processing Center.

ished, with the new government nationalizing most businesses. The impact was felt heavily by the Sino-Vietnamese community whose businesses were confiscated. Many no longer had a means of livelihood and were threatened with being sent to the New Economic Zone.

The deprivation of businesses and its nationalization in Northern Vietnam, combining with a deterioration of relationship between Vietnam and the People's Republic of China, resulted in increased discrimination against Vietnamese Chinese. This caused in excess of 200,000 Sino-Vietnamese to cross the border into the People's Republic of China in 1978, where they have been accepted for resettlement.

In the meantime, exodus by boat continued from Southern Vietnam, principally ethnic Chinese, fleeing to the south to Malaysia, Indonesia and some to Thailand. Those leaving by boat from Northern Vietnam during this period, also primarily ethnic Chinese, generally sailed northward to Hong Kong. This outflow became such a massive exodus by mid-1979 that an emergency meeting of United Nations representatives was held at Geneva in July 1979, to seek to cope with the problem.

At this meeting, the Government of Vietnam agreed to actively attempt to stem the departure of persons seeking to leave Vietnam by boat. This interdiction appears to have been effective inasmuch as refugees from Vietnam have decreased materially. However, it is interesting to note that since that time more ethnic Vietnamese have succeeded in escaping from Vietnam, and many of these from Northern Vietnam.

Orderly Departure Program

In addition, the Vietnamese Government agreed to discuss with the United States procedures to permit the orderly departure of persons from Vietnam. Discussions have taken place to seek to effect such an orderly departure; however, disagreement as to the formula for selecting persons to depart, and other pro-



cedural differences have achieved a stalemate. Thus, the orderly departure program has yet to reach fruition. Consequently, although at a reduced rate, boat refugees are still leaving Vietnam for countries of first asylum in Southeast Asia.

Interview by INS Officers

Until the passage of the Refugee Act of 1980, the mission of the United States Immigration Officers assigned or detailed to the Indochinese Refugee Program has been to exercise the discretion of the Attorney General in paroling aliens for emergent or reasons deemed to be strictly in the public interest (Section 212(d)(5), Immigration and Nationality Act). In exercising the discretion, the officer weighed any statutory grounds of inadmissibility, adverse information procured at interviews or from other sources, against close ties to the United States or other emergent or public interest factors.

The interview of the refugee, under oath, generally is conducted through an interpreter. The normal procedure is for the entire family group to appear together before the Immigration Officer. The officer has the benefit of the background information assembled by JVAR. He will ask questions to verify factors material to the refugee's eligibility, confirm relationship or close association with the United

INS Immigration Officer Thomas Prokopowicz interviews a group of refugees at a refugee camp in Thailand.

States, if applicable, inquiring into factors that could impinge on admissibility and/or a favorable exercise of discretion.

The Immigration Officer is the ultimate fact-finder, acting for the Attorney General to determine if parole is to be granted, and the category to be assigned. If the Refugee Officer questions the discretionary determination of the Immigration Officer as to parole or category assignment, he may present the matter to the District Director, Hong Kong, for review and reconsideration.

Because the exodus of refugees has far exceeded the capabilities of the United States to promptly accept them, to avoid an inordinate waiting period in camps and to seek to assure their acceptance by the United States, it has not been uncommon for refugees to resort to deception to seek to establish false family relationships to upgrade their category. When such duplicity is discovered, generally, the refugee is denied parole by the Immigration Officer as a matter of discretion.

Whether denial of parole is justified for polygamous families, is a troublesome issue that the Immigration Officer encounters with some frequency



In Malaysia, U.S. Voluntary Agency representatives interview some Vietnamese boat refugees for resettlement in the U.S.

amongst the Indochinese refugees. It becomes a sensitive and vexing issue that must be sorted out on a case by case consideration.

Movement to U.S. by ICEM

After acceptance of the refugee by the Immigration Officer for parole into the United States, and upon receipt of assurance from a sponsor, if ready to move under the category system, the refugee is referred to ICEM (Intergovernmental Committee for European Migration) for medical examination and movement to the United States. The refugee will hand carry his file with A-Number to the U.S. port of entry.

Dedication of INS Officers

A narrative about the refugee program in Southeast Asia would not be complete without special words of praise for the men and women of this Service who have volunteered for a 60-day detail away from family and friends and oftentimes to work and live under the most primitive conditions. For example, many of these officers were detailed to process refugees on isolated islands in makeshift huts or

in the open. The sleeping accommodations at one island outpost was the table upon which the officers worked and ate their meals.

United States Refugee Policy

The foregoing is a discussion related to the refugee-parole procedures prior to the effective date of the Refugee Act of 1980 (May 17, 1980). This Act reflects the historic policy of the United States to receive its fair share of world refugees of special humanitarian concern to the United

States and its policy to internationalize, that is, to encourage all nations to provide assistance and resettlement opportunities to refugees.

The objective of the Act is to merge all United States refugee programs, including conditional entry (Section 203(a)(7), Immigration and Nationality Act), into a single permanent procedure for the processing, selection and admission of refugees; and after admission, an effective program of assistance to the refugee to assure his adjustment and assimilation into the American community.

The new Act was passed at a time when refugees were still arriving by boat or across land borders to countries of first asylum in Southeast Asia; also exiling countries in Eastern Europe, the Middle East, and with turmoil and unrest surfacing in other parts of the world, generating new potentials for groups fitting the definition of "refugee" in the new Act.

The Immigration and Naturalization Service can expect to be processing refugees seeking a haven in the United States for some time to come.

A World Problem

The resettlement of refugees must



A typical refugee camp along the Thailand coast where Vietnamese boat people are housed awaiting resettlement.

be looked upon as a problem concerning all nations of the world. However, the relocation of the refugees is a response only to the symptoms, not the cause of their tragic flight from their homeland. Hopefully, the global community, working through diplomatic channels, international organizations, creating effective world opinion, can erase or neutralize racial, religious or political persecution, and refugees will be no more. ■

Settlement Patterns of Indochinese Refugees in the United States*

By Linda W. Gordon
Statistician
Statistics Branch
Central Office

Introduction

In April-May 1975, approximately 130,000 refugees were evacuated from Vietnam, as American forces withdrew from the country. By the end of December 1975, all of these evacuees had been resettled in the United States. While other refugee movements into the U.S. have involved more people over periods of years (the Cubans especially), this was the largest number of refugees ever to be resettled in this country in such a short period of time.

The prevailing sentiment in Congress in 1975 regarding their resettlement was that they should be dispersed widely throughout the country rather than encouraged to settle in large groups. This was to be accom-

plished through the sponsorship of refugee families by voluntary agencies, and it was hoped that minimal Federal program assistance would be necessary. Apparently it was feared that the unpopularity of the war would carry over into an unfriendly reception for the refugees, especially if they were perceived as a drain on tax monies or if they had a perceptible impact on some local communities. The assumption of government officials and of sponsoring agencies was that refugees would tend to remain in the community of first placement and sponsorship.

Whatever we may think of the merits of this policy of geographic dispersal, later developments have proved it rather ineffective. While Indochinese refugees can be found living in every state of the U.S. as well as various territories, nearly one-third of them were living in California in early 1979, and noticeable enclaves existed in other parts of the country. In this paper I will describe the current resettlement pattern, trace its development since 1975, and touch on differences in dispersal among the three nationality groups that constitute the Indochinese refugee population. Finally, I will compare the settlement patterns of the later entering cohorts with that of the 1975 cohort.

Source of Data

The source of data for this study is the U.S. Immigration and Naturalization Service (INS) Alien Address Report for the years in question. By law, in January of each year all non-citizens present in the U.S. are required to register with the INS by mailing a postcard form. The form lists name, address, an identifying number, date of birth, date of entry into the U.S., type of visa held, and several other pieces of information. It was revised in 1979 to gather more useful employment data; however, these data are not analyzed here. For this analysis, persons are defined as Indochinese if they reported

their nationality as Vietnamese, Cambodian, or Laotian.

This method of data collection, of course, has several inherent flaws. Coverage is known to be less than complete, since the system relies primarily on voluntary compliance. While failure to register is a violation of law, it receives relatively low priority in INS enforcement efforts. Fortunately, in the case of the Indochinese, compliance has been relatively good. I estimate the coverage of the Indochinese population at 85 to 90 percent for 1976 to 1979. This estimate is based on a comparison of the numbers of Indochinese known to have entered in each calendar year, less those who became citizens, with those who registered the following January. (No deductions were made for deaths or emigrations, which are not tallied by INS, so this method tends to underestimate compliance.)

Additionally, this data system is based on self-reporting on a form printed in the English language. This form may pose difficulties for persons with a very limited command of English and even for persons who do not understand some terminology based in immigration law that appears on the form. In particular, in one question people are asked to indicate their "immigration status" (type of visa held) by checking one of a series of boxes. For our purposes, the relevant categories are "refugee" and "permanent resident," although a few Indochinese have held other types of visas.

Most Indochinese entered the U.S. initially as "refugee-parolees" under the immigration law. In October 1977, legislation was passed providing for adjustment of their immigration status to that of permanent resident alien after two years' physical presence in the U.S., making all those who entered in 1975 immediately eligible. The categories checked on the Alien Address Report forms should reflect these changes in legal status.

Almost all Indochinese in the U.S. were legally in refugee status in 1976, 1977, and January 1978, but by January 1979, almost all of the

*This discussion was presented by the author at the Annual Meeting of the Southwestern Sociological Association in Houston, Texas, April 2-5, 1980.

first wave were permanent resident aliens, leaving the more recent entrants in refugee status. However, because of errors in self-reporting and other problems, the reporting of immigration status by the Indochinese was highly unreliable in 1976, 1977, and 1978. Also, for this analysis we wish to consider the 1975 cohort as refugees, even though they will be eligible for citizenship in 1980.

Therefore, I have used the total registration of Indochinese in the U.S. under the Alien Address Report Program to approximate the population of Indochinese refugees in the U.S., without excluding anyone based on self-reporting of immigration status. This data is not perfect, but it is the best nationwide data base in existence on the refugee population.

United States Department of Justice
Immigration and Naturalization Service
Washington, DC

TABLE 1.
STATES WITH LARGEST INDOCHINESE
POPULATION AS OF JANUARY 1979

State	Indochinese population	Percent of Indochinese
California	49,084	31.2
Texas	15,942	10.1
Pennsylvania	9,598	4.2
Louisiana	8,498	4.1
Virginia	5,950	3.8
Washington	5,714	3.6
Illinois	4,710	3.0
Florida	4,118	2.6
Oregon	4,042	2.6
Minnesota	3,524	2.3
All other states	31,205	20.5
U.S. Total	157,593	100.0

Source: INS Alien Address Report

Areas of Concentration

As previously indicated, by 1979 a tendency for the Indochinese to gather in certain parts of the country was apparent. The ten states with the largest Indochinese populations as of January 1979 are listed in Table 1. California had nearly one-third of all the refugees, Texas had 10 percent, and no other state had more than 5 percent, although all of the top ten states had enough refugees for the impact to be noticeable if they were

United States Department of Justice
Immigration and Naturalization Service
Washington, DC

TABLE 2.
TOTAL OF THIRTEEN INDOCHINESE NATIONALITIES IN SELECTED
STATES, 1975-1979

State	YEARS					Percent change, 1976-79
	1975	1976	1977	1978	1979	
California	2,413	26,891	34,222	38,613	48,084	+81.9
Texas	902	9,829	12,601	12,788	15,942	+50.7
Pennsylvania	416	7,348	6,828	6,590	6,896	- 7.7
Louisiana	146	3,643	5,618	6,263	8,498	+83.3
Virginia	624	5,294	6,158	5,951	5,950	+14.3
Washington	434	4,581	5,984	5,933	5,714	+23.2
Illinois	483	3,874	4,114	3,944	4,710	+21.6
Florida	554	4,882	4,875	4,520	4,118	-15.7
Oregon	195	2,199	2,821	3,100	4,042	+83.0
Minnesota	293	3,631	3,870	3,224	3,524	- 8.2
New York	722	4,198	4,029	3,517	3,294	-19.5
Columbia	341	2,192	2,373	2,654	3,354	+63.0
Oklahoma	170	3,280	3,407	2,927	2,838	-13.7
Michigan	308	2,693	2,662	2,384	2,649	- 1.7
Iowa	135	2,434	2,010	3,466	2,576	+ 5.8
Hawaii	529	2,094	1,995	2,003	2,349	+11.9
Ohio	350	2,017	3,016	2,480	2,321	-25.1
Maryland	409	2,756	2,910	2,462	2,305	-17.1
Wisconsin	166	1,914	2,284	2,110	2,166	+15.1
Kansas	180	1,755	1,788	1,792	2,086	+16.6
Missouri	250	2,842	2,762	2,624	1,917	-32.5
Indiana	236	1,856	1,776	1,673	1,407	-23.4
All other states	3,206	22,803	22,848	20,242	21,595	- 5.3
U.S. Total	15,474	125,889	140,174	138,127	157,593	+25.2

Source: INS Alien Address Report

located in a few communities. This tended to be the case.

Since California has such a large number of refugees, the local area impact there is much greater than in other parts of the country. Very large numbers are living in Los Angeles and in communities comprising the Los Angeles metropolitan area, including Santa Ana, Alhambra, Inglewood, and Long Beach. To the south, a large settlement can be found in San Diego, and to the north in the San Francisco area, including San Jose and Oakland.

Outside of California, the largest community of resettlement is Houston. Next to Houston is the District of Columbia with its suburbs, where most of the refugees are actually living. Following these in approximate order are New Orleans, the Seattle-Tacoma area, Portland, Oregon, the Dallas-Fort Worth area, the Chicago area, Minneapolis-St. Paul, Denver, and the Philadelphia area. All of these communities had at least 3,000

Indochinese as of January 1979, with Houston having at least 8,000.

Trends over Time

It is particularly instructive to look at the residence patterns since January 1975, before the evacuation, to see how the current pattern arose. Table 2 shows the 22 states with the largest Indochinese populations as of January 1979, and the numbers who registered in those states in each January since 1975, as well as the U.S. totals. It is apparent that the 1975 influx, more than eight times the January 1975 number, was so great as to overwhelm the small Indochinese communities already present in the U.S. (It is also evident that 1978 was the year of the greatest underreporting, since the total registered was about 1600 less than in 1977.) Otherwise, the totals from year to year are a good reflection of the numbers known to have entered in each year.

Looking at the state totals, we can

see that the tendency for the Indochinese to locate in California is not new. That state had more Indochinese than any other in January 1975, just as today, with about 18 percent of the total. Texas ranked second then as now, with 7 percent at that time. In contrast, New York State was third in 1975 but has not become a major focus of refugee resettlement, ranking eleventh among the states in 1979. Thus, some of the current settlement pattern predates the 1975 refugee wave, with new entrants having gravitated toward established communities as one would expect; but some areas where Indochinese were already living did not grow proportionately.

The program under which refugees were processed through four camps set up on military bases located in Arkansas, California, Florida, and Pennsylvania, was intended to promote their dispersal across the country. That it did have a lasting effect can be seen in the positions of Pennsylvania and Florida as major centers of Indochinese population: third and eighth in rank. However, the Indochinese populations dropped slightly from 1976, just after the resettlement camps closed, to 1979, indicating that they are two sources of the secondary migration often mentioned in discussions of the resettlement of these refugees. Also, Arkansas has never had a large refugee population despite its role as the location of a resettlement camp.

As Table 2 shows, secondary migration has been an important factor in developing the current pattern of residence. From January 1976 (when the initial resettlement program had been completed) to January 1979, the total number of Indochinese registering increased by 25 percent, reflecting later refugee entries. However, California, Texas, Louisiana, Oregon, and Colorado saw increases between 53 and 88 percent, indicating that they have all been targets of significant secondary migration or have received a disproportionate share of the late entries. Other states with sizeable refugee populations, such as Florida, New York, Ok-

TABLE 3.
PROPORTION OF INDOCHINESE IN SELECTED
STATES, 1976-1979

State	YEARS			
	1976	1977	1978	1979
California	22.5	24.3	27.6	31.2
Texas	8.3	6.5	9.2	10.1
Pennsylvania	6.0	4.9	4.5	4.2
Louisiana	2.9	4.2	4.5	4.1
Virginia	4.3	4.3	4.3	3.8
Washington	3.8	3.6	3.6	3.6
Illinois	3.2	2.9	2.8	2.8
Florida	4.1	3.5	3.3	2.8
Oregon	1.8	2.8	2.3	2.6
Minnesota	3.0	2.6	2.3	2.3
New York	3.5	2.3	2.6	2.3
Colorado	1.8	1.7	1.9	2.1
Oklahoma	2.7	2.5	2.1	1.8
Michigan	2.2	1.9	1.7	1.7
Iowa	2.5	2.0	1.8	1.6
Idaho	1.7	1.7	1.6	1.5
Ohio	2.5	2.1	1.6	1.5
Maryland	2.3	2.1	1.8	1.5
Wisconsin	1.6	1.6	1.6	1.4
Kansas	1.5	1.3	1.3	1.3
Missouri	2.4	2.0	1.6	1.2
Indiana	1.6	1.3	1.1	1.0
All other states	16.1	14.3	14.5	13.7
U.S. Total	125,604	146,774	159,127	157,550

SOURCE: INS Alien Address Report

lahoma, Ohio, Maryland, Missouri, and Indiana, registered declines of 13 to 31 percent in their Indochinese populations during this three-year interval.

Table 3 presents the 1976-1979 changes in a different way, showing what proportion of the Indochinese resided in each of the same 22 states in those years. This table highlights the ingathering to California, which went from having 22.5 to 31.2 percent of the U.S. Indochinese population in three years. No other state showed a comparable increase, but of the states declining in Indochinese, none showed an abrupt decline. The move to California does not seem to have come disproportionately from any one state. Additionally, there are exceptions to the usual generalization about migration from the Snow Belt to the Sun Belt: Florida has declined while Colorado has gained. The reasons for some of these changes appear when we look at the residence patterns of the three nationalities, comprising the Indochinese, separately.

Differences Among the Three Nationalities

The three nationality groups entered the United States in different waves; in fact, the legislation pertaining to Indochinese refugees was not extended to include those from Laos until the summer of 1976. As Table 4 shows, most of the Vietnamese arrived in 1975, with a second wave of "boat people" beginning in late 1978. Also, most of the Cambodians present in early 1979 had arrived in 1975, with a small but steady inflow in the subsequent years. The Lao arrived in two major waves during 1976 and 1978. Of course, large numbers of all three nationalities arrived in 1979, and more will be said about them in the final section.

Table 5 shows the states with major concentrations of each of the three groups as of January 1979. The percentage of each group living in the state is shown for the top ten states. This table indicates that California and Texas are key states for each nationality examined separately, as for the combined total.

TABLE 4.
NUMBERS OF INDOCHINESE REPORTING
IN JANUARY 1975-1979

Year	NATIONALITY		
	Vietnamese	Cambodian	Laotian
1975	13,867	272	305
1976	120,198	4,441	1,269
1977	125,352	5,803	9,819
1978	123,434	5,847	10,048
1979	133,679	6,450	17,160

Source: INS Alien Address Reports

However, there are some interesting differences among the groups. In particular, the settlement patterns of the Vietnamese and Cambodians are rather similar, while the Laotians show a different settlement tendency.

Since the Vietnamese are 85 percent of the Indochinese refugee population, their residence pattern dominates Tables 1-3. However, Table 5 shows that Louisiana and Florida are important states in the resettlement of the Vietnamese only, not for the other two groups. Similarly, the states of Virginia and Washington have significant concentrations of Vietnamese and Cambodians but relatively few Laotians.

The Laotians are much more likely to be found in Northern and Midwestern states than are the other two groups. Minnesota, Illinois, Iowa, and Wisconsin are all centers of settlement for the Laotians but not for the others. Also, they are more dispersed around the country than the other two groups. This seems to be due in part to their shorter time of residence in the U.S.

All the evidence indicates that a great deal of secondary migration is taking place among the refugees, with a tendency to congregate in certain areas, not necessarily the same ones for each nationality. The process of ingathering seems to have progressed farther among the Vietnamese and Cambodians, who simply have been here longer.

A comparison of Table 5 with Table 3 shows the net effect of migration over the two-year interval from 1977

TABLE 5.
PERCENT OF EACH NATIONALITY IN SELECTED STATES
OF CONCENTRATION, 1977*

State	Vietnamese		Cambodian		Laotian	
	%	Rank	%	Rank	%	Rank
California	32.8	1	31.0	1	20.3	1
Texas	10.8	2	8.5	3	7.2	2
Louisiana	4.7	3	"	17	"	37
Pennsylvania	4.2	4	3.9	6	4.0	8
Virginia	4.0	5	4.3	5	"	15
Washington	3.6	6	7.7	4	"	14
Florida	2.9	7	"	20	"	31
Illinois	2.5	8	2.7	8	4.6	3
New York	2.2	9	2.6	9	"	19
Oregon	2.1	10	0.9	2	0.8	9
Minnesota	"	11	"	12	4.5	5
Colorado	"	13	2.5	7	4.4	6
Maryland	"	15	2.5	10	"	38
Hawaii	"	19	"	36	3.5	10
Iowa	"	20	"	39	5.0	4
Wisconsin	"	22	"	22	4.1	7
Total number in U.S.	133,679		6,450		17,160	

*Percentages are shown only for the ten states with the greatest number of each nationality.

"Less than 2.1%.

"Less than 2.0%.

"Less than 2.8%.

Source: INS Alien Address Report

TABLE 6.
PERCENT OF EACH NATIONALITY IN SELECTED STATES
OF CONCENTRATION, 1977*

State	Vietnamese		Cambodian		Laotian	
	%	Rank	%	Rank	%	Rank
California	24.3	1	28.8	1	13.8	1
Texas	8.7	2	7.3	3	7.2	2
Pennsylvania	5.0	3	4.1	7	2.8	10
Louisiana	4.8	4	"	13	"	32
Virginia	4.4	5	5.0	6	3.1	9
Florida	3.7	6	"	23	"	21
Washington	2.6	7	6.9	4	"	17
New York	2.8	8	3.4	8	3.7	7
Illinois	2.7	9	3.2	9	5.1	6
Oklahoma	2.7	10	"	40	"	29
Minnesota	"	11	2.2	10	"	14
Ohio	"	13	"	20	3.5	8
Maryland	"	14	5.0	5	"	38
Oregon	"	16	8.2	2	"	18
Hawaii	"	17	"	34	8.5	3
Wisconsin	"	19	"	38	5.5	4
Total number in U.S.	126,352		5,803		8,810	

*Percentages are shown only for the ten states with the greatest number of each nationality.

"Less than 2.7%.

"Less than 1.8%.

"Less than 2.3%.

Source: INS Alien Address Report

to 1979, for each group separately. For the Vietnamese, the major changes were the move toward California and to a lesser extent Texas, strengthening the position of those two states as major centers of Vietnamese population. The same can be said for the Cambodians, who also left Maryland in noticeable numbers. During the same period, the Laotians moved into California, and also into Colorado, Minnesota, Oregon, Illinois, and Pennsylvania. They tended to leave Hawaii, Iowa, Wisconsin, Virginia, and New York. It is difficult to draw any geographic generalizations from these movements, and the process is probably incomplete.

The 1979 Entrants

During the 1979 calendar year, more than 95,000 new Indochinese refugees entered, according to INS figures. Of these, about 71 percent were Vietnamese, 23 percent Laotians, and 6 percent Cambodians. This is a higher proportion of Laotians and a smaller proportion of Vietnamese than characterized the entries of earlier years.

Tabulation of the January 1980 registration is incomplete, so it has not been possible to incorporate it into the findings presented above. However, we do have some preliminary indications based upon data collected at the time of entry as to the destinations of the refugees who entered in 1979. These data show about four of every ten new refugees going to California, and about one of every ten going to Texas. Therefore, the two major states of concentration in early 1979 were reinforced by the entries of the subsequent year.

Other states with high refugee populations in early 1979 that received a large 1979 influx were Pennsylvania, Illinois, Washington, New York, Minnesota, Oregon, Colorado, and Louisiana. A few places that did not previously have relatively large refugee enclaves were named as destinations: the District of Columbia (these refugees may settle in Maryland or Virginia), Michigan, Hawaii, Iowa, and Kansas.

Summary

The INS registration data show a distinct tendency for the Indochinese refugees to cluster together in certain locations over a period of several years. This indicates the impossibility, in a free society, of specifying where people will live, even those people who are newly admitted. There appears to be a tendency for new arrivals to seek others like themselves, which was also the case in the great waves of 19th and early 20th century immigration. In the case of these refugees as with other recent immigrants, this tendency is reinforced by the preference system for screening applicants for entry, which confers advantages to relatives of those already here.

Other motives besides family reunification frequently hypothesized for the secondary migration of the Indochinese are for employment (toward areas with expanding economies), for better social services, and for a warm climate. The data source used here can provide only indirect evidence on people's motives for moving. Fortunately, some research is in progress that will yield more direct information.

I am preparing to analyze a sample of INS administrative records of Indochinese refugees which contain individual migration histories as well as demographic and economic characteristics. Researchers supported by another agency are preparing a survey that will inquire directly about motives for moving, while collecting migration histories. Hopefully, much more work of this kind will be undertaken in the future. There is a great need for better information to support social planning and policy development pertaining to refugees in the U.S. ■

The "Refugee Act of 1980"

The "Refugee Act of 1980", P.L. 96-212 (94 Stat. 102), was signed into law by President Carter on March 17, 1980. This comprehensive measure is designed to meet the refugee problem which in recent years has grown to such proportions that current law could no longer adequately deal with the situation.

Enactment of this Administration-sponsored bill followed a Senate-House conference convened to reconcile the differences in the Senate and House Bills (S.643 and H.R. 2816). Most provisions of the new law became effective April 1, 1980.

The legislation seeks to provide a permanent and systematic procedure for the admission of refugees of special humanitarian concern to the United States, and to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted.

Among other things, it provides a new definition of "refugee"; separates the admission of refugees from that of immigrants; authorizes the annual admission of up to 50,000 refugees; provides for increased admissions in certain situations; and sets forth procedures for consultation with Congress on numbers and allocations of refugees.

Definition of Refugee

A new subsection 101(a)(42) is added to the Immigration and Nationality Act, defining "refugee". The definition basically follows that of the "U.N. Convention and Protocol Relating to the Status of Refugees", and eliminates geographical and ideological considerations.

Previously, under Section 203(e)(7) of the Act, refugee was defined as a person who because of persecution or fear of persecution on account of race, religion, or political opinion fled

from any Communist or Communist-dominated country or area, or from any country within the general area of the Middle East and was unable or unwilling to return to such country on account of race, religion or political opinion.

The new definition states refugee means any person outside his country of nationality or if having no nationality, is outside his country of last habitual residence, who is unable and unwilling to return to that country based on persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion. Note that the basis for persecution has been expanded to include nationality and membership in a particular social group.

Additionally, the new definition includes persons within their country, in such special circumstances as the President after appropriate consultation (with Senate and House Judiciary Committees) may specify, can be treated as refugees. It excludes persons who themselves engaged in persecution.

Annual and Emergency Admissions

A new section, Section 207 is added to the Act. Section 207(a) limits the "normal flow" of refugees who may be admitted to 50,000 in Fiscal Years 1980, 1981 or 1982, unless the President determines before the beginning of the fiscal year, and after consultation with Congress, that admission of refugees in excess of that number is justified by humanitarian concerns or is otherwise in the national interest.

A subsequent provision of the bill limits the FY 1980 quota to 25,000. Additionally, it provides that the President may make a determination not later than 45 days after enactment of this Act that admission of refugees in excess of the 25,000 is necessary for FY 1980.

After Fiscal Year 1982, the President is given authority to set the numerical limit, before the beginning of the fiscal year and after appropriate

consultation. The President will also allocate the numbers among refugees of special humanitarian concern to the U.S., again after appropriate consultation. Although not defined, both the Senate and House referred to "special humanitarian concern" as including the plight of the refugees, the pattern of human rights violations in the country of origin, family ties, historical, cultural or religious ties, the likelihood of finding sanctuary elsewhere, and previous contact with the U.S. Government.¹

Section 207(b) gives the President authority, after consultation, to admit refugees above the numerical limit for a period not to exceed 12 months in response to emergency refugee situations.

Section 207(c) gives the Attorney General authority to admit any refugee, subject to the numerical limitations established, who is not firmly resettled in any foreign country and is determined to be of special humanitarian concern to the U.S. The Attorney General also is given authority to waive the following exclusionary grounds in Section 212(a): labor certification (14); public charge (15); visas (20), (21); literacy (25); and foreign medical graduates (32).

Other grounds of inadmissibility can be waived for humanitarian reasons, with the exception of the following: the bar to admission of aliens whose presence in the U.S. would be prejudicial to our public interest under Sections 212(a)(27) and 212(a)(29), aliens who engaged in persecution as Nazis under Section 212(a)(33), and that portion of Section 212(a)(23) which applies to traffickers in narcotics. The Attorney General, however, must report to Congress the number of waivers granted and the reasons for granting the waivers.

Section 207(c) also provides for the admission of spouses and children of refugees, and allows the Attorney General to terminate the

refugee status of any alien if it is determined that the alien was not in fact entitled to such status.

Section 207(d) requires the President to report to Congress before the beginning of each fiscal year regarding the foreseeable number of refugees and the anticipated allocation of refugee admissions for the coming fiscal year.

Section 207(e) specifically describes and defines the term "appropriate consultation" required between designated representatives of the President and members of the Senate and House Judiciary Committees, concerning refugee admissions.

Such consultation involves meeting with these Committees to review the refugee situation or emergency refugee situation, to project the extent of possible U.S. participation, to discuss the reasons for believing that the proposed admission of refugees is justified by humanitarian concerns or grave humanitarian concerns or is otherwise in the national interest, and to provide specific, detailed information of the particular refugee situation.

Asylum

The legislation makes a clear distinction between refugee and asylum. A new Section 208 is created, giving the Attorney General authority to establish a procedure for an alien physically present in the U.S. or at a land border or port of entry, regardless of status, to apply for asylum. Asylum may be granted if the Attorney General determines that such alien is a refugee within the meaning of Section 101(a)(42)(A). This will require a change in current INS regulations under 8 CFR 108. The procedure must be established no later than June 1, 1980.

This section also requires the Attorney General to formulate regulations for terminating asylum should a change in circumstances in the alien's country occur.

As in Section 207, provision is made for the admission of spouses and children of aliens granted asylum.

¹House Report No. 99-609, 96th Cong., 1st Sess., Nov. 9, 1979, p. 13 and Senate Report No. 96-256, 96th Cong., 1st Sess., July 23, 1979, p. 6.

It also should be noted that under Section 201 of Title IV of this Act, the Attorney General is given authority to grant permission to engage in employment in the U.S. to an alien applicant for asylum who applied before November 1, 1979, and with respect to whom "a final, non-appealable and legally enforceable order of deportation or exclusion has not been entered".

Adjustment of Status

A new Section 209 provides for adjustment of status to lawful permanent residence of refugees who have been physically present in the U.S. for at least one year. Under previous law, the refugee had to have been physically present for at least two years. Adjustment to lawful permanent resident is recorded as of the date of arrival of the refugee into the U.S.

This section also provides for adjustment to permanent residence of any alien granted asylum who has been physically present in the U.S. for at least one year after the grant of asylum. In these cases, permanent residence will be recorded as of the date one year before the date of approval of the application for adjustment. The law further provides that no more than 5,000 of the refugee admissions authorized in any fiscal year may be made available for adjustment of status of aliens who have been granted asylum. For FY 1980, it limits this number to 2,500.

Changes in Quota and Visa Allocations

Section 201(a) of the Act is amended reducing the worldwide quota from 290,000 to 270,000 per year. However, for FY 1980, the overall quota is set at 280,000 since enactment of the law occurred six months into the fiscal year. For the same reason, refugee admissions for FY 1980 will be 25,000 and adjustment of status for those granted asylum is limited to 2,500.

Sections 202 and 203 of the Act are amended to eliminate all references to conditional entry; to raise

the percentage of immigrant visas allocated to second preference from 20 to 26 percent, by transferring the six percent formerly allocated for conditional entrants; and to redesignate paragraphs (8) and (9) of Section 203(a) as (7) and (8), respectively. Also, subsections (f), (g), and (h) relating to adjustment of status for conditional entrants are deleted.

Withholding of Deportation

The new law also amends Section 243(h) of the Act, relating to withholding of deportation, to bring it in line with the U.N. Convention and Protocol. Previously, the Attorney General had discretionary authority to withhold deportation if "in his opinion the alien would be subject to persecution" The new law provides that "The Attorney General shall not deport or return any alien (other than an alien described in section 241(a)(19)) to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion."

In addition, 243(h) provides four specific categories for which the withholding relief may not be granted: an alien involved in persecution; an alien convicted of a serious crime, constituting a danger to the community; an alien who has committed a serious nonpolitical crime outside the U.S. prior to arrival; and an alien who is a danger to the security of the U.S.

Parole

The parole authority under Section 212(d)(5) is amended by adding a paragraph which states the Attorney General may not parole an alien who is a refugee unless he determines there are compelling reasons in the public interest which require that the alien be paroled rather than admitted as a refugee under Section 207.

A 60-day delayed effective date on the parole limitation was adopted in order that existing refugee parole programs may continue until consul-

tation on future refugee admission programs is held under the terms of this legislation.

Savings Clause

The bill provides a savings clause for aliens granted conditional entry or who established a date of registration for conditional entry before April 1, 1980. In addition, aliens who entered as conditional entrants or who have been paroled into the U.S. as refugees, prior to April 1, 1980, and are eligible to adjust to permanent residence status pursuant to Section 5 of P.L. 95-412, may do so after one year, the same time period set forth in the new Act. They are also eligible for the same waivers of inadmissibility as described in the new refugee law.

Refugee Coordinator and Assistance

Title III of the Refugee Act of 1980 establishes a statutory post of U.S. Coordinator for Refugee Affairs, with the rank of Ambassador at Large, who reports directly to the President, and is responsible for overall refugee policy.

Title III also adds a new Chapter 2 to Title IV of the Immigration and Nationality Act, establishing an Office of Refugee Resettlement within the Department of Health and Human Services, to administer refugee assistance programs outlined in the new law. ■

Changes in the Regulations

Under Title 3, Code of Federal Regulations:

Consult 45 FR 16161 and 16163, Mar. 13, 1980, Presidential Proclamation Nos. 4733 and 4734 of Mar. 11, 1980, proclaiming May 1, 1980

"Law Day, U.S.A." and "Loyalty Day, 1980", respectively.

Under Title 8, Code of Federal Regulations:

Consult 45 FR 16462, Mar. 14, 1980, Sec. 235.10(c).

45 FR 19214, Mar. 25, 1980, Sec. 212.1(a).

45 FR 19545, Mar. 26, 1980, Sec. 204.1; 212.6(a); 235.1(f)(iii), (iv); 235.1(g).

45 FR 20461, Mar. 28, 1980, Sec. 238.3 and 238.4

45 FR 23641, Apr. 8, 1980, Sec. 214.2(j)(1), (2), & (3); 248.3(b).

45 FR 24649, Apr. 10, 1980, Sec. 212.1(e).

45 FR 24859, Apr. 11, 1980, Sec. 214.2(h)(1).

45 FR 26015, Apr. 16, 1980, Sec. 214.1(c); 245.1(d); 248.2.

45 FR 25791, Apr. 16, 1980, Sec. 214.2(h)(2)(iv).

45 FR 26947, Apr. 22, 1980, Sec. 245.1(d).

45 FR 27918, Apr. 25, 1980, Sec. 242.5(a)(2); 244.1.

Administrative Decisions

(Due to space limitations it is possible to print only an index and identifying paragraph on each precedent decision. Copies of the decisions may be seen at any local office of the Immigration and Naturalization Service. Copies may also be purchased on a yearly subscription basis (\$50. per year, \$12. extra for foreign mailing) from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The Decisions will be printed later in bound volume form. Volumes of past Administrative Decisions are on sale at the Government Printing Office in Washington. Note: Decisions mislabeled from the numerical sequence have not at this printing been released for publication.)

Number 2686-Matter of Mezard. In Visa Petition Proceedings, A-20879992. Decided by BIA, Jan. 17, 1979.

(1) In Haiti, the Presidential Decree of 1966, referred to in *Matter of Aladin*, Interim Decision 2425 (BIA 1975) is determinative of adoptions in Haiti occurring after its publication and before April 4, 1974.

(2) Adoptions occurring in Haiti on or after April 4, 1974, are governed by the Presidential Decree of April 4, 1974.

(3) As adoption in Haiti is a judicial act, only certified copies of a court order or judgment approving an adoption will be considered proper evidence of an adoption in Haiti.

(4) Where beneficiary was allegedly adopted in Haiti at age 11 in 1973, the adoption was governed by the 1966 Presidential Decree authorizing adoptions only for the benefit of children less than 6 years of age, and visa petition by citizen father denied.

Number 2687-Matter of Sanchez. In Visa Petition Proceedings, A22 184 879. Decided by BIA, Jan. 30, 1979. Although illegitimate at the time of his birth in Honduras in 1949, the "acknowledged" child of the petitioner-father can now qualify for preference status as his unmarried son in view of the elimination of all legal distinctions between legitimate and illegitimate children in Honduras in 1957. *Matter of Ramirez*, 13 I&N Dec. 696 (BIA 1971) modified.

Number 2688-Matter of Lucero. In Visa Petition Proceedings, A-21710727. Decided by BIA, Feb. 7, 1979.

(1) In a Dominican divorce action for cause, appearance and pronouncement occur simultaneously. *Matter of Gonzales*, Interim Decision 2575 (BIA 1975), overruled in part.

(2) In a Dominican divorce action for cause, the plaintiff must appear at an office of the Civil Registry within two months of the divorce in order to have the divorce pronounced. Once appearance and pronouncement are completed, the divorce is final under

Dominican law. *Matter of Valerio*, Interim Decision 2489 (BIA 1976); *Matter of Taglie*, Interim Decision 2476 (BIA 1976), reaffirmed.

(3) In a Dominican divorce by mutual consent, neither personal appearance nor pronouncement within two months are necessary to finalize the divorce.

(4) Where the record was unclear whether the Dominican divorce terminating the petitioner's prior marriage was for cause, or by mutual consent, and it was unclear whether the formalities had been complied with, the record was remanded for further proceedings.

Number 2689-Matter of Keneda. In Deportation Proceedings, A-22205731. Decided by BIA, Feb. 28, 1979.

(1) Virginia Code Section 18.2-251 is a counterpart to the Federal First Offender Statute, 21 U.S.C. 844(b)(1); and a marijuana charge dismissed pursuant to such a statute may not be used as a basis for deportability under section 241(a)(11) of the Immigration and Nationality Act, 8 U.S.C. 1251(a)(11).

(2) The test for whether a state statute constitutes a counterpart to the Federal First Offender Statute is whether it complies with the Congressional intent to give an offender a second opportunity without the conviction remaining for some state purpose.

(3) The time a respondent was incarcerated prior to the dismissal of the charge is not determinative on the issue of whether a drug charge was properly dismissed pursuant to a state first offender statute.

(4) Defeating deportability is a permissible purpose of a state first offender statute. *Rehman v. INS*, 544 F.2d 71 (2 Cir. 1976).

(5) Absent a showing of lack of jurisdiction, a Virginia State trial judge's order rescinding sentence, and placing an alien under probation on condition he serve and pay the previously imposed sentence, and that on completion the charge would be dismissed pursuant to Virginia Code Section 18.2-251, as a first offender,

followed by a later order dismissing the charge, had the effect of defeating deportability based on that conviction.

(6) Lack of jurisdiction to dismiss a criminal charge after conviction must be affirmatively shown. *Matter of Sirhan*, 13 I&N Dec. 592 (BIA 1970); *Matter of O'Sullivan*, 10 I&N Dec. 320 (BIA 1963).

Number 2693-Matter of Cheung. In Deportation Proceedings A-16032302. Decided by BIA, March 26, 1979.

(1) In *Matter of S-Y-L*, 9 I&N Dec. 575 (BIA 1962), it was held that an alien who was born on the Chinese Mainland could be ordered deported to Formosa (Taiwan) as the country of nationality under the provisions of section 243(e) of the Immigration and Nationality Act because the United States recognized the Nationalist Government as the legal government of China.

(2) In a Joint Communiqué on the Establishment of Diplomatic Relations Between the United States and the People's Republic of China issued on December 15, 1978, President Carter announced the recognition by the United States of the government of the People's Republic of China as the sole legal government of China.

(3) As *Matter of S-Y-L* may no longer be considered valid law, the proceedings are remanded so that the Immigration and Naturalization Service may reformulate its policy regarding the designation of country of deportation in cases involving natives and citizens of China.

Number 2694-Matter of Dewaon. In Exclusion Proceedings, A-21010716. Decided by BIA, Mer. 28, 1979.

(1) An applicant for recordation of lawful admission for permanent residence pursuant to section 214(d) of the Immigration and Nationality Act must comply with the adjustment procedures outlined in 8 C.F.R. 245.2(d).

(2) Before an application for benefits under section 214(d) warrants approval, the applicant must present

competent evidence that a bona fide marriage was celebrated within 90 days of arrival and that he/she is otherwise admissible.

(3) An Immigration Judge in exclusion proceedings lacks jurisdiction to grant recordation of lawful admission for permanent residence pursuant to section 214(d), nor can he entertain any waiver of excludability which is submitted in connection with such application. *Matter of Dixon*, Interim Decision 2615 (BIA 1977) explained.

(4) Applicant for admission who had previously entered the United States as a nonimmigrant fiancé of a United States citizen whom she married within the prescribed 90-day period, but whose application for adjustment had been denied for lack of prosecution, held properly excludable on documentary as well as moral grounds on return from brief visit to Mexico.

Number 2695-Matter of Williams. In Deportation Proceedings A-20201790. Decided by BIA, March 30, 1979.

(1) Respondent applying for withholding of deportation to Haiti under section 243(h) of the Act did not meet burden of proving probable persecution by a preponderance of the evidence. *Henry v. INS*, 552 F.2d 130 (5 Cir. 9/19/77).

(2) 1976 Amnesty International Report entitled "The Situation in Haiti" was not entitled to more evidentiary weight than that accorded by Immigration Judge in view of the fact that the report was not significantly probative on the likelihood of persecution to this respondent. *Fleurbaey v. INS*, 585 F.2d 129 (5 Cir. 1978).

(3) 1976 Amnesty International Report on Haiti does not establish probable persecution by the Haitian Government against either all Haitians or any Haitian who left that country without permission.

(4) Evidence presented by Service, including State Department reports submitted both to the Service and to Congress, found more credible, probative, and timely as to current conditions in Haiti than the 1976 Amnesty International Report.

Number 2696-Matter of M/T "Rajendra Prasad". In Fine Proceedings SFR-10/26.340. Decided by BIA, March 30, 1979.

(1) For purposes of an administrative fine proceeding under section 273 of the Immigration and Nationality Act, 8 U.S.C. 1323, there are essentially two categories of persons considered passengers: (a) those who have paid for passage and have a contract with the carrier and (b) all those who do not fall into the category delineated by the terms "the master, the crew and the owner and his family and servants."

(2) All passengers come within the fine provisions of section 273 of the Act, not merely paying passengers. *Matter of S.S. Greyhound Castle and M/V Western Queen*, 6 I&N Dec. 112 (BIA 1954; A.G. 1954); *Matter of S.S. St. Tropez*, 7 I&N Dec. 500 (BIA 1957), modified.

(3) The provisions of section 273(b) of the Act, 8 U.S.C. 1323(b), calling for an assessment against the offending transportation company equal to the passage money paid by a visa-less passenger is a means of reimbursing a passenger, and does not serve to set a limit on the definition of the term "passenger" under this section. *Matter of S.S. Greyhound Castle and M/V Western Queen*, 6 I&N Dec. 112 (BIA 1954; A.G. 1954), modified.

(4) Where the sole function of an alien is to contribute to the morale of the ship's officers, but not to the functioning of the vessel itself, and the aliens have no background as seamen, no labor obligation to the vessel, are not paid as crewmen, and would not be classified as crewmen under maritime law, they must be considered passengers for purposes of section 273 of the Act.

(5) The spouses and children of ship's officers are not crewmen for purposes of section 273 of the Act, because they do not contribute to the functioning of the vessel itself, and the ship is amenable to fine because the aliens were brought into the United States without the visa required of passengers, into which category they fall.